

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 JULIUS DOMANTAY,) No. C 05-2216 MMC (PR)
12 Petitioner,)
13 v.) **ORDER OF DISMISSAL**
14 E. YLST,)
15 Respondent.)

16 On June 1, 2005, petitioner, a California prisoner then incarcerated at San Quentin
17 State Prison (“SQSP”) and proceeding pro se, filed the above-titled petition for a writ of
18 habeas corpus pursuant to 28 U.S.C. § 2254, challenging a 2004 decision by the Board of
19 Prison Terms finding petitioner unsuitable for parole. On July 25, 2006, the Court granted in
20 part and denied in part respondent’s motion to dismiss the petition, and ordered respondent to
21 file an answer showing cause why the petition should not be granted based on petitioner’s
22 cognizable claim. On September 27, 2006, respondent filed an answer to the petition; on
23 October 12, 2006, petitioner filed a traverse.

24 Thereafter, the Court was apprised that petitioner had been released on parole; as
25 petitioner had not communicated with the Court subsequent to the filing of his traverse, the
26 Court determined the action was potentially subject to dismissal for failure to prosecute,
27 based on petitioner’s failure to keep the Court informed of his current address. Accordingly,
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1 by order filed June 10, 2008, the Court directed both respondent and petitioner to inform the
2 Court of petitioner's whereabouts, and to do so within twenty days of the date of the Court's
3 order. (See Order, filed June 10, 2008, at 2.) In so ruling, the Court advised the parties that
4 if respondent notified the Court that petitioner no longer is incarcerated at SQSP, the action
5 would be dismissed for failure to prosecute, based on petitioner's failure to keep the Court
6 informed of his current address; the Court further informed the parties that if petitioner
7 remains incarcerated at SQSP and if he failed to so notify the Court within the twenty-day
8 period provided, the action would be dismissed for failure to prosecute, on the alternative
9 ground that petitioner had failed to comply with the Court's orders. (See id.) The Clerk was
10 directed to serve a copy of the order on petitioner at his most recent address of record at
11 SQSP. (See id.)

12 On June 12, 2008, the copy of the order sent to petitioner by the Clerk on June 10,
13 2008, was returned from SQSP as not deliverable, with the notation "2/27/08 PAROLE REG
14 2" on the front of the envelope. (Docket No. 14.) On June 16, 2008, a second copy of the
15 order, sent to petitioner by the Clerk on June 11, 2008, likewise was returned from SQSP as
16 not deliverable, with the same notation made on the envelope. (Docket No. 16.) On June 17,
17 2008, respondent filed a response to the Court's order; in said response, respondent states
18 that petitioner is on parole and no longer is incarcerated at SQSP.

19 As petitioner no longer is incarcerated at SQSP and has failed to comply with the
20 Court's orders to keep the Court informed of his current address, the above-titled action is
21 hereby DISMISSED without prejudice for failure to prosecute.

22 The Clerk shall close the file.

23 IT IS SO ORDERED.

24 DATED: July 1, 2008


MAXINE M. CHESNEY
United States District Judge

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